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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended.	)	CC Docket No. 96-149
	)	
Further Notice of Proposed Rulemaking on Information Disclosure Requirements Relating to Section 272(e)(1).	)	

JOINT COMMENTS OF BELL ATLANTIC AND NYNEX

Edward D. Young, III
Michael E. Glover
Of Counsel

The Bell Atlantic Telephone Companies

Edward Shakin
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Their Attorney

The NYNEX Telephone Companies

Campbell L. Ayling
1095 Avenue of the Americas
Room 3725
New York, NY 10036
(212) 395-8326

Their Attorney

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JOINT COMMENTS OF BELL ATLANTIC[1] AND NYNEX[2]

I. INTRODUCTION AND SUMMARY

Section 272(e)(1) requires Bell Operating Companies ("BOCs") to fulfill any requests from an unaffiliated entity for telephone exchange service within a period no longer than the period in which it provides such service to itself and affiliates. According to the Commission this means "[t]he BOC must fulfill equivalent requests within equivalent intervals."[3]

The Commission already has in place safeguards and reporting requirements that will assure compliance with this requirement. If the Commission nevertheless adopts additional requirements, it should limit any new reporting requirements to aggregate data concerning

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1 The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

2 The NYNEX Telephone Companies ("NYNEX") are New England Telephone and Telegraph Company and New York Telephone Company.

3 CC Docket No. 96-149, First Report and Order ("Order") and Further Notice of Proposed Rulemaking ("FNPRM") released December 24, 1996, paras. 239-240 (of Order).

provision of a final service. Such a requirement would minimize the burden on the BOC, while providing the Commission with the most relevant and statistically robust information.

II. THE COMMISSION ALREADY HAS ADEQUATE SAFEGUARDS IN PLACE

Regardless of whether the Commission adheres to its decision to adopt additional disclosure requirements, the Commission must take into account existing safeguards that already assure that BOCs will not discriminate against unaffiliated carriers in the provision of access services. Existing safeguards offer sufficient protection in at least four ways.

First, Section 272(d) provides for a biennial audit process to ensure BOCs are in compliance with Section 272. The Commission recently has promulgated detailed audit requirements that specifically make compliance with Section 272(e)(1) a subject of that audit.[4]

Second, as previously mandated by the FCC, BOCs are already required to file their access installation intervals with the FCC staff.[5] In between audit periods, such intervals provide meaningful data with which to evaluate any concern raised with respect to discrimination in response time.

Third, Section 272(b)(5) provides that the Section 272 separate affiliate "shall conduct all transactions with the Bell Operating Company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection." To implement this requirement, the Commission has required the separate affiliate, at a minimum, to provide a detailed written description of the asset or service transferred and the terms and conditions of the transaction on the Internet within 10 days of the transaction. This information

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4 47 C.F.R. § 53.209(b)(3)(i).

5 See Policy and Rules Concerning Rates for Dominant Carriers, 6 FCC Rcd 2974 (1991) (Attachment B, Section 1.A.c.).

must also be made available for public inspection at the principal place of business of the BOC. [6] This public information allows both the Commission and other parties to evaluate what services the long distance affiliate is purchasing and under what terms.

Fourth, given these safeguards, sophisticated parties such as AT&T, MCI and other access customers of BOCs are more than adequate watchdogs over nondiscrimination requirements.

Accordingly, in light of the above existing mechanisms of information disclosure and regulatory scrutiny, there is no reason for any additional requirement.

III. ANY NEW REPORTING REQUIREMENT SHOULD AVOID UNNECESSARY BURDEN AND RELY ON AVERAGES AND RANGES

To the extent the Commission does mandate new reporting requirements, it should limit those new reporting requirements to simple reports of aggregate data. While the Commission's proposed format for information disclosure under Section 272(e)(1)[7] does require modification, the Commission should be commended for its overall approach of relying upon percentages and averages, as opposed to disclosure of the absolute number of BOC/affiliate requests. This approach will help alleviate some concerns regarding competitive harm from release of sensitive proprietary information revealing competitive activities of the BOC and affiliates. This objective will also be served by allowing for aggregation of data, and for disclosure of the end results of access provision as opposed to interim steps.

6 Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order released December 24, 1996, para. 122.

7 See FNPRM paras. 371-72, Appendix C.

Rather than establish a standard format for a report, the Commission should identify specific well-defined minimum measures, which each BOC could then reflect in its chosen format. This would enable the BOC to use existing processes so long as these processes meet the minimum requirement. Should the Commission require a standard format, a simpler alternative should be adopted as presented in the Attachment to these Joint Comments.

Statistically valid data requires aggregation at high levels and consideration of deviation and confidence levels. Rather than relying on one percentage, the Commission should allow acceptable average/mean percentage ranges. The actual process of provisioning and maintaining access services varies from case to case depending on such factors as complexity of the circuit, geographic location, weather, workload, facility availability, time of day, etc. In addition, each interexchange carrier ("IXC") has a different mix of customers, and quite often, different product mixes. All of these factors will cause significant performance variance, even in completely unbiased processes. This effect is magnified greatly in smaller sample sizes.

Statistically, the best method to minimize variance is to measure the largest relevant unit with the largest population of data (the phenomenon of "regression-to-the-mean"). Reporting by quarterly (or by three-month moving averages) rather than by month will increase sample size. Regional rather than state-by-state reporting will reduce geographic variance. Total process measurement (e.g., from order to completion) rather than measurement of intermediate steps will smooth out random work step variances and aggregation errors.

The Commission included seven items in its reporting format. As proposed, these items include meaningless and unnecessary categories that should be modified as follows:

1) Successful completion according to a desired due date (measured in a percentage):

The Commission should delete its measure of performance versus a desired due date because the proposed measure has no necessary relation to the standard interval for service installation. Moreover, as the Commission observes with respect to item 2, the BOCs have no control over a customer's requested due date.[8] Accordingly, a more meaningful measure would be successful completion against the BOC promised due date (also called the firm order commitment). Since this area is addressed by item 2, item 1 should be deleted.

2) Time from BOC promised due date to circuit being placed in service (measured in terms of percentage installed within each successive 24 hour period, until 95% installation completed):

The Commission should modify its proposed measure of service interval because it uses the wrong starting point and the wrong measure from that point. As proposed, item 2 encompasses the time from when a firm order commitment is given to the time when a service is successfully delivered to the customer. The true measurement of a service interval, however, is from the date the order is received to the firm order commitment date provided to the customer. A separate measure should be used to determine the percentage of commitment dates that have been met.

Due dates that are negotiated are often beyond the standard intervals. BOCs are often asked weeks, if not months, in advance by the customer to write orders for future service. Accordingly, to be meaningful, item 2 should exclude any service orders for which the customer chooses a due date beyond the standard interval.

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8 FNPRM para. 373.

Reporting on an incremental 24 hour basis is not a standard industry measure. Such a requirement would impose a burden without providing any meaningful data. To generate such a high level of detail would require major programming changes as well as voluminous paper reports.

3) Time to firm order confirmation (measured in terms of percentage received within each successive 24 hour period, until 95% completed):

Time to order confirmation is one of many interim steps in the process that can affect the time taken to install service. Rather than select one interim step, the Commission should measure the percentage of orders that are installed on time.

4) Time from PIC change request to implementation (measured in terms of percentage implemented within each successive 6-hour period, until 95% completed):

Measuring timing of primary interexchange carrier ("PIC") changes is unnecessary. Since PIC changes are generally mechanized, the possibility of discriminatory performance in such a process is remote and could easily be detected in an audit by running a few test orders.

At a minimum, the Commission's proposed measurement in item 4 should be aggregated by BOC corporate family, as compared to all nonaffiliates. Maintaining data by individual carrier identification code ("CIC"), i.e., by IXC, would be voluminous and burdensome. Because it provides no additional information concerning the relationship between the BOC and its affiliate, it is also unnecessary. Further, the average interval should be used instead of increments.

5) Time to restore and trouble duration (percentage restored within each successive 1 hour interval, until resolution of 95% of incidents):

This item should be modified since it appears to confuse two different measures: a) time to restore, i.e, the time a BOC takes to restore service once notified -- usually called mean time to repair; and b) trouble duration, which in addition to time to restore includes the time for a customer to agree the trouble has been resolved. The appropriate measure for item 5 is mean time to clear reports (time from BOC receipt of trouble report from the customer until the service is restored and closed with the customer), and as above incremental reporting should not be required.

6) Time to restore PIC after trouble incident (measured by percentage restored within each successive 1 hour interval, until resolution of 95% restored):

This item should be deleted. PIC troubles are checked and cleared while the customer is on-line. It is not necessary to measure time to clear PIC troubles. Otherwise, this item should be modified so as to measure mean time to repair PIC troubles (similar to item 5), without incremental reporting or reporting by individual CIC.

7) Mean time to clear network/average duration of trouble (measured in hours):

This item is redundant with item 5 (time to restore and trouble duration), and should be eliminated.

* * * * *

In refining the items 1-7 above, the Commission should keep in mind that the focus of Section 272(e)(1) is on the end result, i.e., the "period" in which service is rendered by the BOC to itself and affiliates, as compared to unaffiliated carriers. Thus, the Commission should not require any disclosure/reporting on interim steps or intermediate checkpoints. Such measures would only create additional tracking work without providing any useful information on the ultimate timeliness of the overall service.

Regarding the Commission's request for comment on access subcategories for its proposed service categories,[9] the access subcategories should be DS3, DS1 and All Other Special Access Services, with no further division. This approach is consistent with how the data are categorized today and will allow for consistent categorization among different companies.

Finally, retention requirements should be limited to reported results.[10] Detailed support data are voluminous, provide no additional relevant information, and should not be subject to the same retention requirements.

9 FNPRM para. 381.

10 See FNPRM para. 379.

IV. CONCLUSION

The Commission should follow through on the deregulatory intent of the Act by either relying on existing safeguards, or imposing new reporting requirements consistent with these comments.

Respectfully submitted,

Edward D. Young, III
Michael E. Glover
Of Counsel

Edward Shakin
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic Telephone Companies

Campbell L. Ayling

1095 Avenue of the Americas
Room 3725
New York, NY 10036
(212) 395-8326

Attorney for the
NYNEX Telephone Companies

February 19, 1997

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Proposed Format for Information Disclosure Pursuant to Section 272(e)(1)
BOC Including BOC Affiliates Report

Attachment (p. 1 of 2)

*** PERFORMANCE MEASUREMENT**	*** SPECIAL SERVICES (ACCESS)**		
	DS1	DS3	ALL OTHER
1 Average Interval in Days			
2 Percent Install on Time			
3 Mean Time to Clear Reports			

*** PERFORMANCE MEASUREMENT**	**PIC CHANGE REQUEST**
4 Average Interval in Hours	

* Definitions of the performance measures and service categories are attached.

Proposed Format for Information Disclosure Pursuant to Section 272(e)(1)
BOC Including BOC Affiliates Report

Attachment (p. 2 of 2)

PERFORMANCE MEASURES

MEASURE	CALCULATION
1. Average Interval in Days	The number of days between the service order request (Point of Notification or PON) and the service order due date as established by the firm order commitment (FOC) for each service order. (This excludes customer requests that exceed the normal interval.) The average interval is calculated by adding the number of interval days for all included service orders, divided by the total number of service orders.
2. Percent Install on Time	The total number of installations (including those that are farther out than the normal interval) that were completed on time (based on the service order established due date) divided by the total number of service orders. This is the percentage of orders completed on time.
3. Mean Time to Clear Reports	The total measurable hours and minutes from all Customer Reports (CR) troubles (from the time the BOC receives a trouble report from the customer until the service is restored and closed with the customer) divided by the total number of troubles for the report period. This measure <u>does not include</u> INFormation tickets. The measures will be "Stop Clock" (<u>e.g.</u>, measures excluding no access time).
4. PIC Change Interval	The average interval of time from receipt of the PIC change request from the carrier to when the change is implemented in the end office switch, measured in hours, calculated by dividing the total number of PIC change requests into the total number of hours and minutes from receipt to implementation.

SERVICE CATEGORY DEFINITIONS

Special Access Service	Definition
DS1	A discrete service with a bit rate of 1.54 MB/Second and 24 Voice-Grade Channels.
DS3	A discrete service with a bit rate of 44.74 MB/Second and 672 Voice-Grade Channels. (Also equivalent to 28 DS1s.)
All Other Special Access Services	All other special access services than DS1 or DS3 (defined above). This does not include switched access services.